*THE HONOURABLE SRI JUSTICE V.V.S.RAO

+WRIT PETITION No.21159 of 2005

% 21-03-2006

Panjala Rajaiah, S/o.Lachaiah

...Petitioner

Vs.

$ The Deputy Secretary, Government of India,
Ministry of Home Affairs, Freedom Fighters Division,

Loknayak Bhavan, New Delhi – 110 011.

… Respondent

! COUNSEL FOR PETITIONER: Sri Kowturu Vinaya Kumar

^ COUNSEL FOR RESPONDENT: Smt.Y.B.Saraswathi,
learned Additional Central Government Standing Counsel

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>HEAD NOTE:

?CASES REFERRED:

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.21159 of 2005

21.3.2006

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Between:

Panjala Rajaiah, S/o.Lachaiah

… Petitioner

AND

The Deputy Secretary, Government of India,

Ministry of Home Affairs, Freedom Fighters Division,

Loknayak Bhavan, New Delhi – 110 011.

… Respondent

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.21159 of 2005

ORDER:

The petitioner claims to be a freedom fighter. He statedly participated in the armed freedom struggle against the erstwhile Nizam of Hyderabad. He has been requesting the Government of India for grant of Freedom Fighters Pension (FFP) under Swatantra Sainik Samman Pension Scheme, 1980 (the Pension Scheme, for brevity) for the last twenty years, in vain. Therefore, he filed the present writ petition seeking direction to Government of India, sole respondent herein, to sanction pension to the petitioner under the Pension Scheme. He also prays for a declaration that letter No.112/6187/86-FF(HC)-A, dated 08.7.2004 issued by the Under Secretary to the Government of India, as illegal and arbitrary. By the said letter, the petitioner was informed that the Government of India declines to accept the report of the State Government recommending grant of pension to the petitioner.

The background fact of the matter is as follows. The petitioner claims that he has participated in the freedom movement during 1947-1948 against Nizam, for liberation of Hyderabad State and merger into Indian Union. According to him, he worked in a border camp at Chanda in Maharashtra under the camp in-charge Sri V.Rajeswara Rao. After the respondent announced the pension scheme, the petitioner submitted an application in 1985 duly enclosing the necessary proof i.e., certificate issued by camp in-charge showing that the petitioner was a bona fide activist of Chanda camp. He alleges that the Government of India got enquiry

conducted through the State Government. But in 2002 again collected another set of application from the petitioner in which by inadvertence he mentioned that the camp was at Hanmakonda instead of Chanda. The respondent rejected the request for pension by letter dated 01.8.2003, for that reason. Therefore, he approached the State Government, who sent a clarification vide letter No.43379/FF.1/A2/03-1, dated 21.10.2003 informing the respondent that the petitioner participated in the camp at Chanda and requesting the Central Government to sanction pension to the petitioner. However, the same was not accepted and the petitioner was informed by the respondent that it is not possible to accept the fresh report of the State Government.

The section officer in the Ministry of Home Affairs, Government of India has filed counter affidavit on behalf of the respondent, opposing the writ petition. It is stated that as per the scheme, the verification and recommendation report of the State Government/U.T. Administration is mandatory and, therefore, it is not possible to deal with the applications for pension sent directly to the Central Government. It is further alleged that the claims of persons, who applied for pensions pertinent to border camps in Hyderabad liberation movement were not accepted initially, as they did not fulfil eligibility criteria under the pension scheme. In 1983, Government of India constituted special screening committee under the chairmanship of Shri Govind Bhai Shroff to scrutinize the applications. The said committee made an extensive tour of the regions comprising erstwhile State of Hyderabad with regard to various camps from which the armed struggle was waged and noticed that there are 98 camps (41 in Andhra Pradesh, 37 in Maharashtra and 20 in Karnataka) and as many as 11,000 participants took active role in the freedom movement. The committee recommended 7,000 cases during its term and pension was sanctioned accordingly. In 1996, the committee was reconstituted under the chairmanship of Shri N.Giri Prasad, Member of Parliament (Rajya Sabha) and on his death in April 1997, Shri Ch.Rajeswar Rao, Member of Legislative Assembly, Andhra Pradesh, was appointed as chairman. The committee again recommended 13,500 cases during its term from April 1997 to May 1998. However, in view of various complaints received by the committee, it was decided to get the genuineness of the claims verified by the State Government. In the application submitted by the petitioner, he claimed to have worked at Hanmakonda camp under the camp in-charge Sri V.Rajeshwar Rao. As there was no camp at Hanmakonda, the claim of the petitioner was rejected. The State Government also sent its report stating that the petitioner was in Hanmakonda camp, which did not figure in 98 camps recognized by special screening committee. None-the-less, the petitioner made a fresh claim. A fresh verification report was submitted by the State Government on 21.10.2003 showing that the petitioner worked in the camp at Chanda and, therefore, the claim was considered doubtful and the petitioner was informed accordingly.

Learned Counsel for the petitioner submits that when the petitioner has submitted his application for the pension under the scheme, he has enclosed the certificate issued by camp in-charge showing that during the period from 1947 to 1948, the petitioner was a bona fide activist of Chanda camp. However, by inadvertence, the petitioner in his application as well as the State Government in its verification report

mentioned the camp at Hanmakonda based on which the request for grant of FFP was rejected. However, when the petitioner again submitted application that in fact he participated and worked in Chanda camp, the State Government sent a fresh report/recommendation on 21.10.2003 clearly mentioning that the correct name of the camp is Chanda camp and not Hanmakonda camp. Though the recommendation was made by the State Government afresh, the claim was rejected, which is illegal. According to the learned Counsel, the recommendation made by the State Government cannot be lightly brushed aside by the Central Government.

Learned Central Government Standing Counsel has placed reliance on the pension scheme as well as an unreported judgment of Patna High Court in **Kishori Singh v Union of India** (C.W.J.C. No.8665 of 1997 dated 08.1.1999) and submits that the recommendation of the State Government is not binding on the Central Government and, therefore, even if the State Government recommended for a second time, it is open to the Central Government to reject as a doubtful claim.

The background facts and the rival submissions would give rise an important question as to whether under the pension scheme verification report/recommendation sent by the State Government is binding on Central Government, which is the competent authority to sanction FFP under Swatantra Sainik Samman Pension Scheme, 1980?

The Silver Jubilee year of Independence of Republic India was celebrated in 1972. So as to commemorate 25th year of its independence, Government of India introduced Freedom Fighters Pension scheme to grant pension to freedom fighters and their families from the central revenue. The scheme effective from 15.8.1972 contemplated to sanction minimum pension starting from Rs.200/- per month subject to a ceiling of Rs.5,000/-. However, with effect from 01.8.1980, the scheme was revised and the benefit of pension scheme was extended to all the freedom fighters as a token of ‘samman’ to them irrespective of the fact whether such financial assistance is required for freedom fighters or not. The said pension scheme contains 12 paragraphs. Paragraph 4 enumerates the persons, who are eligible for grant of pension under the scheme. It is to the effect that a person, who had suffered minimum imprisonment of six months in the mainland jails before Independence and if such person is SC/ST/Woman must have suffered a minimum period of three months. A person, who remained underground for more than six months, is also eligible for the pension. Paragraphs 6 to 10 contain the procedure for applying, for proving the claim and the modalities for issue of sanction order. Paragraphs 6 and 10 are relevant and read as under.

> **6. How to apply?**
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> Persons who considered themselves eligible for Samman Pension under the Scheme should apply in duplicate on the prescribed application form. One form duly filled and supported by required documents, as proof of claim of suffering should be sent to the Chief Secretary to the State Government/Union Territory Administration concerned. The second copy should be sent to the Deputy Secretary to the Government of India, Freedom Fighters Division, Ministry of Home Affairs, First Floor, Lok Nayak Bhavan,

New Delhi – 3 as an advance copy.

10. Issue of sanction order

The receipt of advance copy of application form is acknowledged. The claim of the applicant will be scrutinized in the State Government/Union Territory administration in consultation with State, Advisory Committee on the basis of copy of application submitted to them. After receipt of late verification and entitlement to pension report, the claim of the applicant is scrutinized and if found eligible pension is granted. Sanctions are issued as copies to the Chief Secretary of the State Government/U.T. Administration and the Collector/D.C. of the District concerned. Simultaneously, a communication conveying sanction of pension as also the amount of pension is issued to each grantee. Applicants whose applications are not approved are duly informed.

Under paragraph 6, a person who considered himself eligible for FFP has to apply in duplicate in the prescribed application form. One copy should be sent to the Chief Secretary to the State Government/Union Territory Administration and the second copy should be sent to the Deputy Secretary, Ministry of Home Affairs, New Delhi. Such application accompanied by necessary evidence to prove the claim as enumerated in paragraph 9. The note below paragraph 9 is to the effect that the certificate issued by veteran freedom fighters in respect of underground suffering, internment/externment is also a valid background for proof of claim. Be that as it is, under paragraph 10, the claim of the applicant shall have to be scrutinized by the State Government/U.T.Administration in consultation with the State Advisory Committee and it is only after receipt of verification and entitlement report, the claim of the applicant is scrutinized by the Government of India.

A reading of paragraphs 6 and 10 together makes it abundantly clear that Government of India is required to scrutinize the application for FFP only with reference to verification and entitlement report provided that the applicant is found eligible for such grant. The report/ recommendation of the State Government is given utmost importance in the scheme. The report, therefore, cannot be rejected by the Central Government on the ground that the claim is doubtful in spite of the report of the State Government. This Court is not able to agree with the submission of the learned Central Government Standing Counsel that the recommendation of the State Government is not binding on the Central Government. A certified copy of the unreported judgment of the High Court of Patna in **Kishori Singh v Union of India** (supra) is not placed before this Court. On plain reading of paragraph 10, this Court is convinced that the report of the State Government does not only give right to the applicant for being considered for grant of FFP but also in certain cases final and binding.

In the present case, the petitioner along with the application has submitted the certificate issued by Sri V.Rajeshwar Rao, S/o.Mohan Rao, who was in-charge of

Chanda camp. The certificate reads as under.

> I, the undersigned V.Rajeswar Rao, son of Mohan Rao and resident of (full address) Hanmakonda was incharge of the Camp situated at Chanda District Chanda which planned and organised armed freedom struggle and sabotage activities against Nizam's feudal Rule during the period from 1947 to 1948.
>
> I hereby certify that from my personal knowledge/that Shri Panjala Rajaiah, S/o.Lachaiah resident of Chelpur, Tq.Huzurabad, Dist.Karimnagar, A.P. is a bona fide activist of my camp. He was assigned by me following activities which he successfully carried out.
>
> (Give details as per Instructions)
>
> The freedom fighter has carried out the activity as detailed by him in LR file was assigned by me.

The above certificate contains two paragraphs. The first paragraph only shows that the person giving certificate was resident of Hanmakonda and he was in-charge of Chanda camp. The second paragraph is to the effect that the petitioner was a bona fide activist of the camp i.e., Chanda camp. This certificate was very much enclosed to the application made by the petitioner and, therefore, on a reading of the report of the State Government along with the certificate, it cannot be said that the claim is doubtful. In the considered opinion of this Court, though at one point of time when the claim of the petitioner for FFP was rejected on 01.8.2003 the Government of India relied entirely on the State Government report, there is no reason why the respondent should not rely on the report of the State Government dated 21.10.2003 and sanction pension to the petitioner.

In a matter of this nature, ordinarily this Court would not issue Mandamus directing the competent authority to do a thing contrary to Law. Generally, in such matters, the matter is remanded to the competent authority. However, having regard to the fact that the petitioner is an octogenarian and the report of the State Government and the certificate enclosed by the petitioner show that he was in Chanda camp, this Court is of considered opinion that he should be granted pension.

Accordingly, the writ petition is allowed, directing the respondent to sanction pension to the petitioner with effect from the date of passing of the order by the Government of India. No costs.

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(**V.V.S.RAO,J**)

March 21, 2006

NOTE:

L.R.Copy be marked,

(By order)

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